

ARTICLES OF INCORPORATION
OF
CWA AUTHORITY, INC.

The undersigned incorporator, desiring to form a political subdivision and instrumentality of the State of Indiana acting by and through a non-profit corporation (the "Authority") pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended (the "Act") and Indiana Code 36-1-7 and pursuant to that certain Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) (the "Interlocal Agreement") by and among the City of Indianapolis (the "City"), the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "District"), and the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities) ("Citizens"), dated _____, 2010, executes the following Articles of Incorporation:

ARTICLE I

Name

The name of the Authority is CWA Authority, Inc.

ARTICLE II

Classification of Authority

The Authority is a political subdivision and instrumentality of the State of Indiana acting by and through a non-profit corporation, which is authorized pursuant to the Interlocal Agreement and Indiana Code 36-1-7 and which is a public benefit corporation.

ARTICLE III

Purposes and Powers

Section 3.1. Purposes. The purposes for which the Authority is formed are:

(a) to exercise the powers delegated and/or transferred to it in the Interlocal Agreement on behalf of the City, the District and Citizens for the benefit of the inhabitants of the City and the customers of the District's wastewater collection and treatment system, including, without limitation, the Belmont and Southport wastewater treatment plants (the "System"), in each case, in a manner that:

(i) protects the City and its inhabitants against further sale or disposition of the System, and forever from private ownership, control or partisan political governance; and

(ii) is coordinated with other utility properties that may be held, owned and/or operated by the Citizens or its affiliates (including the Authority) for the achievement of synergies; and

(b) in furtherance of the aforesaid purposes, to transact any and all lawful business for which corporations may be incorporated under the Act.

Section 3.2. Powers. Subject to any limitation or restriction imposed by the Act, any other law, the Interlocal Agreement or any other provisions of these Articles of Incorporation, the Authority shall:

(a) have all of the City's powers (excluding taxing power and taxing authority) that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned pretreatment works within the meaning of the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.* (the "Clean Water Act"), in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(b) have all of the Districts' powers (excluding taxing power and taxing authority) that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned pretreatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(c) have all of Citizen's powers that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned pretreatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(d) have the power to sue and be sued; and

(e) have, exercise and enjoy in furtherance of the purposes hereinbefore set forth all the general rights, privileges and powers granted to corporations by the Act, as now existing or hereafter amended, and by the common law.

(f) Notwithstanding anything to the contrary herein, the Authority shall have no more power to compromise its debts and file or be subject to a petition for relief under 11 United States Code § 101 *et seq.* than the City, District and Citizens.

(g) Notwithstanding anything to the contrary herein, to the extent the powers to apply and enforce the requirements of Section 307(b) and 307(c) of the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.*, including national pretreatment standards as well as applicable state pretreatment

standards and requirements described in 327 Indiana Administrative Code 5-18, as amended from time to time, required of a program administered by a publicly owned treatment works that meets the criteria established in 40 C.F.R. 403.8 and 403.9, which has been approved in accordance with 40 C.F.R. 403.11, are deemed taxing powers or authority, the exclusion of taxing power and taxing authority from the delegation by the City and District shall not apply to such powers.

ARTICLE IV

Distribution of Assets on Dissolution

Without the approval of the Attorney General of the State of Indiana, the Authority shall not be entitled to file or cause to be filed a petition for relief under the United States Bankruptcy Code or consent to the appointment of a receiver or trustee over its assets. In the event of the filing of an approved petition for relief under the United States Bankruptcy Code, the complete liquidation or dissolution of the Authority or the winding up of its affairs, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of the Authority, including all revenue bonds issued by District and Citizens for the Authority's sewer works, distribute all the assets of the Authority to Citizens or to such other entity as Citizens shall determine, in either case, to be charged with a public charitable trust for the benefit of the inhabitants of the City, in accordance with the purposes of the Authority set forth herein.

ARTICLE V

Term of Existence

The Authority shall have perpetual existence.

ARTICLE VI

Registered Office and Registered Agent

Section 6.1. Registered Office and Registered Agent. The street address of the Authority's registered office is 2020 N. Meridian St. Indianapolis, IN 46202 and the name of the Authority's registered agent at that office is Aaron D. Johnson

Section 6.2. Principal Office. The post office address of the principal office of the Authority is 2020 N. Meridian St. Indianapolis, IN 46202.

ARTICLE VII

No Members

The Authority shall have no members.

ARTICLE VIII

Board of Directors

Section 8.1. Number, Term of Office and Appointment. The Board of Directors shall consist of the seven (7) individuals who are appointed by the Board of Trustees for Utilities of the Department of Public Utilities of the City of Indianapolis (and the utility special taxing district), from time to time and in the manner set forth in Indiana Code 8-1-11.1-1, as members of the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis (and the utility special taxing district). Each director shall serve for a term equal to his or her appointment to the Board of Directors for Utilities. Despite the expiration of a director's term, a director continues to serve until a successor is appointed and qualified so long as such director is also a member of the Board of Directors for Utilities.

Section 8.2. Qualifications. Each director shall be a member of the Board of Directors for Utilities of the Department of Public Utilities for the City of Indianapolis (and the utility special taxing district).

Section 8.3. Initial Board of Directors. The names and addresses of the initial Board of Directors of the Authority are:

<u>Names</u>	<u>Addresses</u>
Lawrence A. O'Connor, Jr.	2020 N. Meridian St. Indianapolis, IN 46202
Anne Nobles	2020 N. Meridian St. Indianapolis, IN 46202
Dorothy J. Jones	2020 N. Meridian St. Indianapolis, IN 46202
James M. McClelland	2020 N. Meridian St. Indianapolis, IN 46202
Anita J. Harden	2020 N. Meridian St. Indianapolis, IN 46202
Daniel C. Appel	2020 N. Meridian St. Indianapolis, IN 46202
Martha D. Lamkin	2020 N. Meridian St. Indianapolis, IN 46202

ARTICLE IX

Name and Address of Incorporator

The name and address of the incorporator of the Authority are:

<u>Name</u>	<u>Address</u>
Aaron D. Johnson	2020 N. Meridian St. Indianapolis, IN 46202

ARTICLE X

Indemnification

Section 10.1. Rights to Indemnification and Advancement of Expenses. The Authority shall indemnify as a matter of right every person made a party to a proceeding because such person is or was:

- (a) a member of the Board of Directors of the Authority,
- (b) an officer of the Authority, or
- (c) while a director or officer of the Authority, serving at the Authority's request as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise, whether for profit or not (each an "Indemnatee"),

against all liability incurred by such person in connection with the proceeding; provided that it is determined in the specific case that indemnification of such person is permissible in the circumstances because such person has met the standard of conduct for indemnification specified in the Act. The Authority shall pay for or reimburse the reasonable expenses incurred by an Indemnatee in connection with any such proceeding in advance of final disposition thereof in accordance with the procedures and subject to the conditions specified in the Act. The Authority shall indemnify as a matter of right an Indemnatee who is wholly successful, on the merits or otherwise, in the defense of any such proceeding against reasonable expenses incurred by the person in connection with the proceeding without the requirement of a determination as set forth in the first sentence of this paragraph.

Upon demand by a person for indemnification or advancement of expenses, as the case may be, the Authority shall expeditiously determine whether the person is entitled thereto in accordance with this Article and the procedures specified in the Act.

The indemnification provided under this Article shall be applicable to any proceeding arising from acts or omissions occurring before or after the adoption of this Article.

Section 10.2. Other Rights Not Affected. It is the intent of this Article to provide indemnification to directors and officers to the fullest extent now or hereafter permitted by law consistent with the terms and conditions of this Article. Nothing contained in this Article shall limit or preclude the exercise of, or be deemed exclusive of, any right under the law, by contract or otherwise, relating to indemnification of or advancement of expenses to any person who is or was a director, officer, employee or agent of the Authority, or the ability of the Authority to otherwise indemnify or advance expenses to any such individual.

Notwithstanding any other provision of this Article, there shall be no indemnification with respect to matters as to which indemnification would result in inurement of net earnings of the Authority "to the benefit of any private shareholder or individual," within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or similar provisions of any subsequent Federal tax laws.

Section 10.3. Definitions. For purposes of this Article:

(a) A person is considered to be serving an employee benefit plan at the Authority's request if the person's duties to the Authority also impose duties on, or otherwise involve services by, the person to the plan or to participants in or beneficiaries of the plan.

(b) The estate or personal representative of a person entitled to indemnification or advancement of expenses shall be entitled hereunder to indemnification and advancement of expenses to the same extent as the person.

(c) The term "expenses" includes all direct and indirect costs (including, without limitation, counsel fees, retainers, court costs, transcripts, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all other disbursements or out-of-pocket expenses) actually incurred in connection with the investigation, defense, settlement or appeal of a proceeding or establishing or enforcing a right to indemnification under this Article, applicable law or otherwise.

(d) The term "liability" means the obligation to pay a judgment, settlement, penalty, fine, excise tax (including an excise tax assessed with respect to an employee benefit plan) or reasonable expenses incurred with respect to a proceeding.

(e) The term "party" includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.

(f) The term "proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

ARTICLE XI

Amendment

Subject to the Act, the power to amend these Articles of Incorporation shall be vested in the Board of Directors of the Authority; provided however, that any such amendment must not be inconsistent with the Interlocal Agreement.

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[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned incorporator executes these Articles of Incorporation and verifies subject to penalties of perjury that the facts contained herein are true.

Dated this _____ day of _____, 2010.

Written Signature

Printed Signature

This instrument was prepared by Anthony P. Aaron, Esq., Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282.